

## **BOARD OF ZONING APPEALS**

### **Minutes**

**April 13, 1999**

The special meeting of the Board of Zoning Appeals of the City of Wichita, Kansas, was held at 1:30 p.m., on April 13, 1999, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, Kansas.

The following Board members were in attendance: JOHN ROGERS, RANDY PHILLIPS, FLOYD PITTS, JUANITA SWANN, KEITH ALTER and DOUG MALONE WERE PRESENT. BICKLEY FOSTER WAS absent.

The following Planning Department staff members were present: Secretary, DALE MILLER, and Recording Secretary, ROSE SIMMERING.

Also present was J.R. COX, Office of Central Inspection, SHARON DICKGRAFE, Law Department.

**PITTS:** Called the special meeting of the Board of Zoning Appeals to order at 1:35 p.m. We only have one item BZA 11-99. Will staff please proceed?

- 1. BZA 11-99 - Messiah Baptist Church (owner), Dan Kubish,** pursuant to section 2.12.590.B, Code of the City of Wichita, requests a variance to increase the permitted sign height from 20 feet to 30 feet; and a variance to allow the sign to be interior lit on property zoned "SF-6", Single-family Residential and legally described as follows:

Lot 1, Block A, Messiah Baptist church 4th Addition. Generally located Northeast corner of east 21st Street and K-96 Highway.

**MILLER:** Presents staff report and slides.

**BACKGROUND:** The congregation of the Messiah Baptist Church is developing a new church campus on 40 acres located at the northeast corner of K-96 and east 21st Street North. The church site is zoned "SF-6", Single-family Residential. Churches in the "SF-6" district are permitted one bulletin board sign for each collector, arterial or expressway frontage so long as the signs do not exceed 48 square feet in size nor 20 feet in height. The code also requires these signs to be lit indirectly with white light only. Messiah Baptist Church has frontage along both K-96 and 21 Street North. The applicants are requesting a variance to permit a 30 foot tall and two internally lit signs. The applicants propose to locate a 30 foot tall, internally lit pole sign whose area is smaller than the 48

square feet allowed. The proposed sign is to be built with materials that are architecturally consistent with the brick and stucco type finish of the church. A diagram of the sign is attached. A second sign is proposed at the entrance of the church on 21st Street. This sign is a monument type sign and complies with all sign code requirements except that it is to be internally lit. This sign is also to be constructed with materials that are consistent with the church building.

Land north and east of the church is undeveloped (SF-20, Single-family Residential). Further east, approximately 27 acres has been approved for "LC," Limited Commercial and "MF-29," Multi-family Residential uses. The property to the south is a combination of vacant, large lot residential uses and a school (SF-20, Single-family Residential). To the west is K-96 Highway. Further west is land being developed for a cemetery ("SF-6", Single-family Residential).

**ADJACENT ZONING AND LAND USE:**

NORTH	"SF-20", Single-family Residential; vacant
SOUTH	"SF-20", Single-family Residential; school, large-lot residential, vacant
EAST	"SF-20", Single-family Residential; vacant
WEST	"SF-6", Single-family Residential; K-96 Highway, cemetery

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as it is a 40 acre site is adjacent to an elevated interchange segment of a divided 4-lane highway. The church is located near the middle of the tract, some 700 hundred feet from the intersection of 21st Street and K-96. Approval of the additional height and internal lighting would help church members to locate the church more easily due to the elevated 21st Street and K-96 intersection.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the signs will be located along 21st Street North, which is a designated "4-lane arterial" by the 2020 Transportation Plan and K-96 Highway which is designated as a 4-lane Freeway. Due to the interchange, it is anticipated that 21st Street in this immediate area will develop with nonresidential use. A school already exists to the south and Limited Commercial zoning has been approved to the east of the site. A taller sign and two internally lit signs will not negatively impact adjacent properties. The signs are designed to be architecturally compatible with the church building and do not contain any distracting or objectionable features.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as the signs will help new church members and those seeking the church who may not be familiar with its location to locate this new facility, particularly from a high speed facility like K-96.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the signage will help people locate the facility. A 30 foot tall sign is not as tall a sign as would be permitted if this site were zoned for commercial uses.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the sign code is intended to provide enough signage that citizens can identify destinations while at the same time minimizing unnecessary clutter and distraction that could jeopardize safe and efficient circulation. Increasing the height of one sign by ten feet at the intersection of a proposed expressway and an existing freeway, and allowing that same sign and one other sign on the same site to be internally lit, will not violate the spirit and intent of the sign code.

**RECOMMENDATION:** Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. Prior to installing the proposed sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements, unless another variance is granted by the Board, except that the height of the pole sign may be 30 feet.
2. The signs may be internally illuminated, but shall not have any flashing or moving lights or any parts which move or create the illusion of movement.
3. The signs shall be constructed substantially in compliance with the elevation drawings submitted with this application. No portable signs shall be permitted along 21st Street North and K-96 Highway frontages.
4. The signs shall be installed within one year or the resolution granting this variance shall be null and void.
5. This variance authorizing a larger sign may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions of approval.

**PITTS:** Any questions for staff from the bench?

**ALTER:** Is this actually two signs or one?

**MILLER:** There are two signs. There would be one sign located here. Which is the one that is proposed to be 30 feet tall and internally lit. The other one is at the entrance and it would be internally lit. At least that is our assumption.

**AUDIENCE:** Away from microphone? It actually would just be the lettering on both of them that would be lit...

**MILLER:** We wanted to make sure that did not cause them a problem later on. Because it was not on the original application, so we just stuck it to be sure that it was covered.

**ALTER:** Do they need a variance on the smaller sign?

**MILLER:** Only for the internal lighting.

**ALTER:** So there are actually two different signs. Probably two different motions will be necessary here aren't there?

**MILLER:** You could do that. You could take them separately or you could take them together or however you wish.

**ALTER:** If this were a commercial property what would be the height restriction for a sign?

**MILLER:** I am going to let J.R. Cox tell you that.

**COX:** Twenty-five feet is standard. The property this size, with approximately one quarter a mile of frontage it could easily have 35 foot and a sign size would be approximately 80 percent of its frontage, maximum 400 square foot per sign. Excuse me 300 per sign. Quite a bit more than what is held to under the zoning.

**ALTER:** So as discussed by staff, if this had developed in commercial or light commercial usage as kind of anticipated probably when K-96 went in. There would have probably been a tall-lit sign there in a small strip shopping center.

**MILLER:** Yes.

**ALTER:** Do we have any other precedent for churches asking for signs of this type?

**MILLER:** There may be. Since I have not been in here on a regular basis for quite a while, I am not as familiar. I do not know whether Sharon or J.R. could answer that.

**DICKGRAFE:** I think we have had some for the number of signs, but I don't think we have ever had a variance since I have been on the Board to have a lit sign. I think that is unique.

**ALTER:** Randy, you have been around as long as I have or longer, but, I remember church cases coming up. I don't remember tall signs coming up. The variances have been on size issues.

**PITTS:** I just have one question, it is not directly related to this. I guess it is. Is there any reason why there wasn't any notification or the sign from the city out there on this request. Or don't we put them up for variances?

**MILLER:** We ask the applicant's to put them up prior to the hearing. Occasionally we have trouble with the wind blowing them down. I do not know whether there was a problem with that.

**PITTS:** I did not see one on two trips that I made by there.

**MILLER:** We ask them to put them up prior to the hearing.

**AUDIENCE: AWAY FROM MICROPHONE.**

**PITTS:** Do we have comments from the applicant?

**RICK W. BROCK, MCCURDY AUCTION SERVICE, 519 NORTH OLIVER, WICHITA, KS 67208:** I will let Mr. Kubish, who is administrative assistant there at the church, talk about where he placed that sign. He is the one that physically put it out there. The only thing that I was going to add so that you are aware of, I think I got one color one here that I left with fellows that we met with initially. As was mentioned the design efforts that have been put into this have just been phenomenal due to the fact that K-96 is setting right next to us. The height of K-96 highway and we finally incorporated the help of an architect to design specifically what needed to be there in order to blend in architecturally with the building and with the landscape and just everything that we could do to try and make a sign that just literally almost disappeared. All that we wanted them to see was just the name and we even talked about putting reader boards on the sign for messages and that type of thing initially and we scraped all that just after talking to the architect. We tried to design the sign that if you look at the sketch of the whole, probably two-thirds of that sign is open on purpose so that you can visually see the building right through the middle of that sign. This sign will bleed literally into the building. The same exact red brick that is used on the building will be utilized on the monument base of this sign. The same driveit material and coloring that is used on the building would be used on the sign. If you look at a close-up and I have those pictures, Dan if you want to maybe hand them that. I have some close-up pictures of the church building and it shows that there is some indentions at the top of the arch of the church where the driveit is, and where it kind of indents back three or four times and we have matched those same indentions even on this design of the sign. All that was just again so that we had something, the height is just for two reasons, it is partially because of 96 Highway setting next to it and the height of 96 Highway. When we talked to him, we talked about having something smaller and basically his answers to us were that if it is not that high we just need not to have it. Because of the fact that the church sits, I think it is 700 or 800 foot, back from the corner where the sign would be placed. Also, the sign would be well back from the corner. The sign is not going to be out, this is not a normal commercial type thing. Our intent is not to get it out there on the frontage as close as we can to stop traffic, a matter of fact it is just the opposite. We are going to have it well back, the

proposal is to set it well back from the corner itself, that there would still be about 700 foot between the sign and the front of the church. Just to sit it, again in the open design so you see the building, it just literally blends into the landscape and all you see is the words. This is just a little color graphic of the colors that would be used. The green face of the sign matches the green roof of the building, white lettering of course, the lettering would be the only thing that would be backlit and that is going to be a soft light, because we do not want some bright neon looking type of sign. We want something that is real soft, but with it being that high of course and just the lettering again what we are talking about lighting. We certainly appreciate your consideration, this has been months and months of diligent effort to try and come with something that would be extremely classy looking that would match the style and the architectural of the church but also something that would be appropriate height in dimension wise and all those dimensions came direct from the design architect that designed the sign.

**PITTS:** Let me ask you one question. You said that it would be about 700 feet from the front of the church to the sign, approximately how many feet from the front of the church to 21<sup>st</sup> Street?

**BROCK:** I think that it is about 900 feet, as I recall. The way he was talking, I think the sign may have been 100 to 150 foot, but I know that it was well back from the corner. Part of what we want to do also, is to landscape that front corner with some type and there are several fellows in the church that have the skill and capability of doing this and I don't. I don't really know how to describe it other than that it would be like a reflecting pond that has stone around it, and the sign would perhaps sit right on the back of that. By the time you get back far enough and then you set that in there and you set the sign behind it the best I would know is somewhere between 100 and 200 feet is probably how far that we would be looking at setting back off of 21<sup>st</sup> Street with that sign if that answers your questions. I wish I could tell you closer to that for you.

**ALTER:** Do you have any problem if that were made a condition? That in order to get this height you had to be a least, 100 feet from the frontage or 75 feet from the frontage.

**BROCK:** No. I would not have any problem with that. You might, especially if it would be 75 foot. Again, I wish he was here, he couldn't be here today, the architect. But I think 75 would be safe. You are talking about 75 foot from the Street right? I think that would be a safe number.

**ALTER:** The reason I ask that is, that we try to think about the next case. There certainly is justification for a lot taller sign if you are talking about that far off the street. I would guess that J.R., would have a lot less trouble justifying some of those things visually than of a sign that has been talked about commercial things where we are talking about people getting requests 40 to 45 feet right on the frontage. If you are farther off, visually, that is not as bad for you guys is it?

**BROCK:** I had forgotten that. That is part of why the architect designed it that way because it was going to sit so far back off the street and I had forgotten his comment. Then the sign there at the driveway again would be the color graphic and that would be identical in the design the brick and the driveit, the face coloring and the letter coloring, everything would be identical to the other sign so that everything would blend in together. Of course that one would be landscaped around and etc., as would the taller one.

**DAN KUBISH, ADMINISTRATIVE ASSISTANT, MESSIAH BAPTIST CHURCH 2006 S. HILLSIDE, WICHITA, KS:** The zoning sign was put to the left of the construction sign along that fence row going north of the expressway at 21<sup>st</sup> and the on ramp to the expressway. It was put up the day that we received it. That is where it is located now. As far as the sign itself, our pastor is not the typical Baptist pastor, because usually Baptist ministers have a reputation of putting the biggest sign up with their picture on it. He wanted something very classy looking especially with Whitetail nearby and those communities. In fact, I took a couple of the drawings and we have several members from that Whitetail area and I asked them and I said what do you think of this sign? Would it be something that you would be embarrassed to have out in front of our church? All of them said, we had other sign designs in fact we had a company out of Florida design us a sign and their recommendation was to put up a 40 foot sign with a 22 foot scroll bar at the bottom so that you could put our messages scrolling across. But, we don't want that type of image for our church. We hired this architect and he came up with this design and our pastor just wanted to make it look very classy but also a lot of people will visit our church and need to know where our church was located. The question yesterday was raised at the CPO meeting about visibility. Our church is very visible because it is on a hill and especially right now because there is no leaves on the trees out there. As the leaves start coming out on the hedge-rows and stuff, especially if you are going north on the expressway, this church is starting to be covered up when they start leafing out. We just want a sign there by the corner so as people get on and off the expressway they know exactly where we are located.

**PITTS:** Any other questions for Mr. Kubish? What did you say about the sign on your opening remarks?

**KUBISH:** The zoning sign that was given to us to put out on the property we installed in to the left of the construction sign which is at the corner of the expressway and 21<sup>st</sup> Street.

**PITTS:** That has been installed for some time?

**KUBISH:** Yes, probably three weeks. The day that it came to our church was the day I took it out there and pounded it into the ground, in the rain.

**PITTS:** Any other questions for Mr. Kubish?

**MALONE:** Mr. Kubish, did you go to the CPO meeting?

**KUBISH:** Yes sir.

**MALONE:** What was the reasoning for limiting to 20 feet?

**KUBISH:** That is a good question. Originally, they made the motion for 30 feet. In fact it was made and then seconded. In fact, that was the way the discussion was going and there was one fellow that didn't want any signs. His statement was I don't believe that it is any value to the community whatsoever to have a sign out there at all since your building is so big. That kind of shocked me. I think, to try and get something done, the lady changed the motion from 30 feet to 20 feet and that is the way that it happened. Originally it was made the motion to a 30 foot sign and it was seconded, then after some discussion the chairman or whoever heads that committee, said he was 50/50 one way or the other. Right before they were ready to vote, she changed it back to 20 feet to see if they all could agree. The fellow Larry did not agree one way or the other. He did not want to agree to anything as far as the sign. Also there was some explanation that the sign is back lit internally, but the whole sign is not lit it is just the letters that are lit Messiah Baptist Church. It is not 13 feet and whatever the height is all lit up. It is just those letters themselves so it should be very classy looking.

**MALONE:** Were the neighbors in attendance?

**KUBISH:** There was not one person there to share?

**MALONE:** Do you feel that was a waste of your time? The CPO Council meeting?

**KUBISH:** Yes, to a certain extent because it went to quickly and they were asking questions, that I thought were pretty unnecessary.

**MALONE:** Based on these comments, it sounded like it was. I just wanted to ask you that.

**KUBISH:** I thought it was kind of silly to be totally honest with you. They would not think that we would need a sign, just because, we are a church.

**PITTS:** Any other persons to speak for the applicant?

**PHILLIPS:** You talked about the open area. Do you have any thoughts about installing something in there later on? Any plans to install any other sign in there or reader sign?

**KUBISH:** I do not think so, originally, we were going to do something like that and I do not think that pastor was really for it to have that type. His exact words were that, "I do not want a typical Baptist sign. Which means you have the reader board that says, Seven days without prayer makes one weak." Which is true, but those types of things that are across those boards.



**PHILLIPS:** So what you are saying is, if this is approved, it will remain as shown? You do not feel like they will be trying to attach anything else to it in the future.

**KUBISH:** I do not believe so, sir.

**ROGERS:** Approximately how tall are the letters?

**BROCK:** Again, I wish Roger were here to get into that better. My understanding is that the letters are somewhere between, I believe 18 inches and 24 inches high. I believe that was the size of the lettering because the actual size of the sign board itself falls within compliance with the 48 square foot, I do know that. It seemed to me like it was 4 X 10 maybe is about the size. You can see there is a little curvature at the bottom. But that would only give you 4 foot so obviously they could not and you have two lines and I am thinking they are probably 18 to 20 inches. Again, I do not know if that was, he did not have dimensions on his lettering. He just had dimensions on the box, the sign box and that type of thing and that I would say that it would be somewhere between 18" and 24".

**PITTS:** Is anyone in the audience to speak in opposition to this variance request? If not, we will bring the discussion to the bench.

**PHILLIPS:** The reason why I asked the question, I think the applicant kind of helped define this a little better as the location possibly being approximately 75 feet back from the right of way. I would like to add that at least in the motion. I would like that they not be allowed to attach any new signs to it. Because I have seen this before that when you have open framework it becomes an open framework for future expansion. I have no problem with the application that has been submitted, but I don't want to go out there later on and see some other signs, whether it is reader board or something attached to that. That to me that is not what I would be approving. As submitted right now, I do not have a problem with the application and will vote for it so long as we can clarify that the sign be maintained as it is. If they want to do something different, let them come back to us.

**DICKGRAFE:** Randy, they couldn't attach anymore to that sign without a variance because they are not getting a variance on the square footage of the sign itself.

**PHILLIPS:** They have maximized that out?

**COX:** 48 square foot would be the maximum.

**PHILLIPS:** There are ways though if you are looking at that drawing, and I noticed that the sign company can actually calculate the letters of the words that says "Messiah" and "Baptist" church.

**DICKGRAFE:** Then you just count those.

**PHILLIPS:** Believe me there are ways that you could get by this if you really wanted to.

**COX:** Without having the dimensions, we could do that. Normally, when they come to us it would be that you box in that area that is a signboard. But you are right it could be broken down. That board is integral to that signage as it exists right now. The letters are on that board and that board has to be there.

**PHILLIPS:** I would like to clarify that we do not have anything else attached to this.

**ALTER:** I do think that it makes a difference and I have a lot less problem authorizing the taller sign with the distance from the frontage that they are approaching because that makes a lot of sense to me.

**SWANN:** Can we put any limitation that they have to be 75 feet off the frontage? If 21<sup>st</sup> Street were to expand, would we leave them in violation of that? We need to make sure that we are anticipating.

**MILLER:** Go from the centerline and that will take care of that.

**MALONE:** Just do it from the centerline.

**ALTER:** Let's clarify this. Was the comment that you made to the applicant earlier 75 feet from the property line or 75 feet from the centerline? Because Randy, made a comment about earlier?

**PHILLIPS:** I think that we ought to measure it from the centerline and probably make it 100 feet then so that you do not run into any problem. They are talking about 75 feet from the property line. So a 100 feet from the centerline from the right of way.

**PITTS:** Setback?

**PHILLIPS:** No. Total right of way. If you were talking from centerline, you would probably make 150 foot. Because is that a 150 foot right of way along with a four lane arterial?

**MILLER:** It is a least 120 and then it has that median in there so it might be, will be close to 140 to 150 foot.

**BROCK:** I was talking about 75 to 100 feet from the street, in other words, from the curve. I do not know how far it is from the curve to the centerline?  
Is that 30 feet?

**PHILLIPS:** Probably at least 30 feet. You have a least 120 foot right of way, and I would be willing to go 60 feet plus your 75, if you go more than that 35 you are going to get pretty good distance.

**BROCK:** 135 feet from the centerline?

**ALTER:** We probably ought to cut that back a little bit. They are not going to move it once it is in there. 100 feet to 125 feet is still probably cover what we are still trying to do is to get it off the frontage.

**PITTS:** You want to include that language in one of these paragraphs.

**MOTION:** MALONE moves PHILLIPS seconded that the Board accept the findings of fact as set forth in the Secretary's Report. And all five conditions set out in the section 2.12.590.B of the code, as necessary for the granting of a variance have been found to exist, and the variance be granted subject to the conditions set out in the Secretary's Report. Variance be granted subject to the recommendations 1 through 5 with recommendation six be added stated that the location of the sign will be limited to 125 feet from the 21<sup>st</sup> Street right of way. From the centerline, I am sorry. Clarify number three that the sign be maintained as submitted now.

**ROGERS:** Are we dealing with these two-signs separately or together?

**MALONE:** This language also covers. Won't this cover the illumination as well at the same time?

**MILLER:** You just want to make sure that the monument sign does not have the same setback requirement as the pole sign

**MALONE:** Let's put in the recommendation number six that it is the pole sign only. Not the monument sign. Let's reference that pole sign only. Yes this is also approving the illuminating sign on both signs.

**PHILLIPS:** Just to clarify, there is a second on the floor, we are doing one motion to cover both signs, and that the pole sign has to be 125 feet from the centerline of the right of way. The monument sign can exist where it is recommended on this plan and that the illumination is approved for both signs.

**PITTS:** You have heard the motion and the second are we ready to vote?

**Motion approved 6-0.**

**PITTS:** The meeting is over. I would just like to ask one question of staff, why was it necessary to call a meeting on this?

**MILLER:** They were trying to meet a building schedule and because we did not meet for a considerable amount of time we were trying to work them in. It was basically customer service. Thought that if there were four of you willing to meet that we would try and help the applicant out.

**Meeting adjourned.**